
HOUSE BILL No. 1540

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-14-3-4; IC 16-18-2; IC 16-19-10-4; IC 16-37.

Synopsis: Use Model State Vital Statistics Act for security. Adopts privacy standards for disclosure of information contained in vital statistics. Makes conforming changes.

Effective: July 1, 2003.

Welch, Porter, Young D, Koch

January 16, 2003, read first time and referred to Committee on Public Health.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

HOUSE BILL No. 1540

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-14-3-4, AS AMENDED BY P.L.1-2002,
2 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2003]: Sec. 4. (a) The following public records are excepted
4 from section 3 of this chapter and may not be disclosed by a public
5 agency, unless access to the records is specifically required by a state
6 or federal statute or is ordered by a court under the rules of discovery:
7 (1) Those declared confidential by state statute.
8 (2) Those declared confidential by rule adopted by a public
9 agency under specific authority to classify public records as
10 confidential granted to the public agency by statute.
11 (3) Those required to be kept confidential by federal law.
12 (4) Records containing trade secrets.
13 (5) Confidential financial information obtained, upon request,
14 from a person. However, this does not include information that is
15 filed with or received by a public agency pursuant to state statute.
16 (6) Information concerning research, including actual research
17 documents, conducted under the auspices of an institution of



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higher education, including information:

(A) concerning any negotiations made with respect to the research; and

(B) received from another party involved in the research.

(7) Grade transcripts and license examination scores obtained as part of a licensure process.

(8) Those declared confidential by or under rules adopted by the supreme court of Indiana.

(9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39.

(10) Application information declared confidential by the twenty-first century research and technology fund board under IC 4-4-5.1.

(11) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):

(A) Telephone number.

(B) Social Security number.

(C) Address.

(12) A photograph, a video recording, or an audio recording of an autopsy, except as provided in IC 36-2-14-10.

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

(1) Investigatory records of law enforcement agencies. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.

(2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:

(A) a public agency;

(B) the state; or

(C) an individual.

(3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.

(4) Scores of tests if the person is identified by name and has not consented to the release of his scores.

(5) The following:

(A) Records relating to negotiations between the department of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development

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commissions with industrial, research, or commercial prospects, if the records are created while negotiations are in progress.

(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the department of commerce, the Indiana development finance authority, the Indiana film commission, the Indiana business modernization and technology corporation, or economic development commissions to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(C) When disclosing a final offer under clause (B), the department of commerce shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) information concerning disciplinary actions in which final action has been taken and that resulted in the employee being disciplined or discharged.

However, all personnel file information shall be made available to the affected employee or his representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would

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jeopardize a recordkeeping or security system.

(11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.

(12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).

(13) The work product of the legislative services agency under personnel rules approved by the legislative council.

(14) The work product of individual members and the partisan staffs of the general assembly.

(15) The identity of a donor of a gift made to a public agency if:

(A) the donor requires nondisclosure of his identity as a condition of making the gift; or

(B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.

(16) Library or archival records:

(A) which can be used to identify any library patron; or

(B) deposited with or acquired by a library upon a condition that the records be disclosed only:

(i) to qualified researchers;

(ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or

(iii) after the death of persons specified at the time of the acquisition or deposit.

However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.

(17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing advisory committee. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations that concern the driver.

(18) School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511

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IAC 6.1-2-2.5.

(19) Vital statistic records required to be kept confidential under IC 16-37-1-10.5 and IC 16-37-1-10.6.

(c) Notwithstanding section 3 of this chapter, a public agency is not required to create or provide copies of lists of names and addresses, unless the public agency is required to publish such lists and disseminate them to the public pursuant to statute. However, if a public agency has created a list of names and addresses, it must permit a person to inspect and make memoranda abstracts from the lists unless access to the lists is prohibited by law. The following lists of names and addresses may not be disclosed by public agencies to commercial entities for commercial purposes and may not be used by commercial entities for commercial purposes:

- (1) A list of employees of a public agency.
- (2) A list of persons attending conferences or meetings at a state institution of higher education or of persons involved in programs or activities conducted or supervised by the state institution of higher education.
- (3) A list of students who are enrolled in a public school corporation if the governing body of the public school corporation adopts a policy:
 - (A) prohibiting the disclosure of the list to commercial entities for commercial purposes; or
 - (B) specifying the classes or categories of commercial entities to which the list may not be disclosed or by which the list may not be used for commercial purposes.

A policy adopted under subdivision (3) must be uniform and may not discriminate among similarly situated commercial entities.

(d) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to be made by any statute or by any rule of a public agency.

(e) Notwithstanding any other law, a public record that is classified as confidential, other than a record concerning an adoption, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.

(f) Notwithstanding subsection (e) and section 7 of this chapter:

- (1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or
- (2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business.

SECTION 2. IC 16-18-2-365.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2003]: **Sec. 365.3. "Vital records", for purposes of IC 16-37-1-10.5, has the meaning set forth in IC 16-37-1-10.5.**

SECTION 3. IC 16-18-2-365.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: **Sec. 365.4. "Vital reports", for purposes of IC 16-37-1-10.5, has the meaning set forth in IC 16-37-1-10.5.**

SECTION 4. IC 16-19-10-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 4. The center shall do the following:

- (1) Collect and process health data.
- (2) Maintain statistics concerning gender and ethnicity and provide the information to the state department of health annually.
- (3) Improve the quality, timeliness, and comparability of health statistics.
- (4) Analyze and disseminate information about the health status of Indiana residents.
- (5) Provide access to health data to persons who are permitted to obtain the data under this chapter, **IC 16-37-1-10.5, and IC 16-37-1-10.6.**
- (6) Support the goals and objectives of the Cooperative Health Statistics System established by the federal National Center for Health Statistics.

SECTION 5. IC 16-37-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 8. ~~(a) Except as provided in subsection (c), a local health officer shall provide a certification of birth, death, or stillbirth registration upon request by any person only if:~~

- ~~(1) the health officer is satisfied that the applicant has a direct interest in the matter;~~
- ~~(2) the health officer determines that the certificate is necessary for the determination of personal or property rights or for compliance with state or federal law; and~~
- ~~(3) the applicant for a birth certificate presents at least one (1) form of identification.~~

~~However, the local health officer must issue a certificate of an applicant's own birth registration.~~

~~(b) (a)~~ A local health officer's decision whether or not to issue a certified copy of a birth certificate is subject to review by a court.

~~(c) (b)~~ A local health officer may not issue a copy of a birth certificate of a missing child to which a notice has been attached under

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IC 10-1-7-8 without the authorization of the Indiana clearinghouse for information on missing children.

SECTION 6. IC 16-37-1-10, AS AMENDED BY P.L.1-1999, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10. (a) Except as provided in subsection (b), The records and files of the division of the state department concerning vital statistics are subject to this article and rules of the state department. Data contained in the records and files may be disclosed only as follows:

(1) The state registrar shall permit inspection of the records or issue a certified copy of a certificate or part of a certificate only if the state registrar is satisfied of the following:

(A) That the applicant has a direct interest in the matter recorded.

(B) That the information is necessary for the determination of personal or property rights or for compliance with state or federal law.

The state registrar's decision is subject to review by the state department or a court under this section.

(2) The state department may permit the use of data contained in vital statistical records for research purposes only; but no identifying use may be made of the data.

(3) In any extraordinary case that the state registrar determines is a direct tangible and legitimate public interest.

(b) The birth record of an adopted child remains subject to the confidentiality provisions of IC 31-19 regarding the release of adoption information.

SECTION 7. IC 16-37-1-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10.5. (a) For purposes of this section, "research" means a systematic investigation designed primarily to develop or contribute to general knowledge.

(b) For purposes of this section, "vital records" means certificates or reports of births and deaths.

(c) For purposes of this section, "vital reports" means reports of fetal deaths and induced termination of pregnancy and related data.

(d) For purposes of this section, "vital statistics" has the meaning set forth in IC 16-18-2-366.

(e) To:

(1) protect the integrity of vital records and vital reports;

(2) ensure the proper use of vital records and vital reports;



(3) ensure the efficient and proper administration of the system of vital statistics; and

(4) support public health uses of the data;

a person may not permit inspection of vital records and vital reports, disclosure of information contained in vital records, or copying or issuance of a copy of all or part of any record or report unless authorized by this chapter, by rule, or by court order. Rules adopted under this chapter must provide for adequate standards of security and confidentiality of vital records.

(f) Disclosure of information that may identify any person or institution named in any vital record or report may be made only under rules that require submission of written requests for information by researchers and execution of research agreements that protect the confidentiality of the information provided. Agreements must prohibit the release by the researcher of any information that might identify any person or institution other than releases that may be provided for in the agreement. This chapter does not prohibit the release of information or data that would not identify a person or institution named in a vital record or report.

(g) Appeal from decisions of registrars of vital records who refuse to disclose information from records as prescribed by this section and rules adopted under this chapter shall be made to the state registrar, whose decision is binding.

(h) When one hundred (100) years has elapsed after the date of birth, the records of those events in the custody of the state or local registrar shall become available to the public without restriction in accordance with rules that provide for the continued safekeeping of the records.

(i) The state registrar or local registrars may furnish copies of records, reports, or data to the federal agency responsible for national vital statistics as required for national statistics. To furnish records, reports, or data, the state registrar must enter into an agreement with the federal agency, indicating the statistical or research purposes for which the records, reports, or data may be used. An agreement must also set forth the support to be provided by the federal agency for the collection, processing, and transmission of the records, reports, or data. Upon written request of the federal agency, the state registrar may approve, in writing, additional statistical or research uses of the records, reports, or data supplied under an agreement.

(j) A federal, state, or local governmental agency may, upon

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request, be furnished copies of records or data from the system of vital statistics if the copies or data are used solely in the conduct of the official duties of the federal, state, or local governmental agency.

(k) The state registrar may, by agreement, transmit copies of records and other reports required by this chapter to offices of vital statistics outside Indiana when the records or other reports relate to residents of other states or persons born in the other states. An agreement must specify the statistical and administrative purposes for which the records may be used, and the agreement must provide instructions for the proper retention and disposition of copies. Copies received by the state data center from the office of vital statistics from another state shall be handled in the same manner as state records are handled.

SECTION 8. IC 16-37-1-10.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 10.6. (a) For purposes of this section, "vital records" means certificates or reports of births and deaths.

(b) For purposes of this section, "vital reports" means reports of fetal deaths and induced termination of pregnancy and related data.

(c) For purposes of this section, "vital statistics" has the meaning set forth in IC 16-18-2-366.

(d) If the state registrar and local registrar are satisfied that there is a direct interest in a requested document, the state registrar and local registrar, as authorized under IC 16-20-1-17, upon receipt of an application and valid identification, shall issue a certified copy of a vital record or a part of the record in the custody of the state or local registrar to:

- (1) the person;
- (2) the listed mother or father of the person;
- (3) the grandparent of the person, when the grandparent is the parent of the person listed as the mother or father of the person;
- (4) the spouse, sibling, or offspring of the person named on the record;
- (5) a person with court ordered guardianship of the person named on the record; or
- (6) a person authorized by a court order to receive the record.

Another person may be authorized to obtain certified copies if the person demonstrates that the record is needed for the

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determination or protection of personal or property rights. The state department of health may adopt rules under IC 4-22-2 to specify who may obtain copies of vital records filed under this chapter.

(e) All certified copies issued must have security features that deter the document from being altered, counterfeited, duplicated, or simulated without ready detection.

(f) A certified copy or other copy of a death certificate containing cause of death information may not be issued except as follows:

(1) Upon specific request of the spouse, child, parent, or other next of kin of the decedent or respective authorized representatives.

(2) When a documented need for the cause of death to establish a legal right or claim has been demonstrated.

(3) When the request for the copy is made by or on behalf of an organization that provides benefits to the decedent's survivors or beneficiaries.

(4) Upon specific request by a local, state, or federal agency for research or administrative purposes approved by the state registrar.

(5) When needed for research activities approved by the state or local registrar.

(6) Upon receipt of an order from a court with jurisdiction ordering the release.

(g) A certified copy of a vital record or any part of a record issued in accordance with this section shall be considered for all purposes the same as the original and is prima facie evidence of the facts stated in the record if the evidentiary value of:

(1) a certificate or record filed more than one (1) year after the event;

(2) a record that has been amended; or

(3) a certificate of foreign birth;

is determined by the judicial body, the administrative body, or the official before whom the certificate is offered as evidence.

(h) This section may not be construed to permit disclosure of information contained in the "Information for Medical and Health Use Only" section of the birth certificate unless specifically authorized by the state or local registrar for statistical or research purposes. Data obtained or acquired under this section are confidential and privileged and not subject to the subpoena power of the courts or other administrative agencies of the state.

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1 (i) When the state registrar receives information that a
 2 certificate may have been registered through fraud or
 3 misrepresentation, the state registrar shall withhold issuance of
 4 any copy of the certificate pending an administrative hearing to
 5 determine whether fraud or misrepresentation has occurred. The
 6 state registrar shall offer the registrant or the registrant's
 7 authorized representative notice and opportunity to be heard. If,
 8 upon conclusion of the hearing, fraud or misrepresentation is not
 9 found, copies may be issued. If, upon conclusion of the hearing,
 10 fraud or misrepresentation is found, the state registrar shall
 11 remove the certificate from the file. The certificate and evidence
 12 shall be retained but are not subject to inspection or copying except
 13 upon order of a court with jurisdiction or by the state registrar for
 14 purposes of administering the vital statistics program.

15 (j) A person may not prepare or issue any certificate that
 16 purports to be an original, a certified copy, or a copy of a vital
 17 record except as authorized in this chapter or rules adopted under
 18 this chapter.

19 SECTION 9. IC 16-37-2-9 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 9. (a) The local health
 21 officer shall make a permanent record of the following from a birth
 22 certificate:

- 23 (1) Name.
- 24 (2) Sex.
- 25 (3) Date of birth.
- 26 (4) Place of birth.
- 27 (5) Name of the parents.
- 28 (6) Birthplace of the parents.
- 29 (7) The date of filing of the certificate of birth.

30 ~~(b) Except as provided in subsection (c), the permanent record shall~~
 31 ~~be open to public inspection.~~

32 ~~(c)~~ (b) The birth record of an adopted child remains subject to the
 33 confidentiality provisions of IC 31-19 regarding the release of adoption
 34 information.

35 SECTION 10. IC 16-37-3-9, AS AMENDED BY P.L.138-2001,
 36 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 2003]: Sec. 9. (a) The local health officer shall, from the
 38 stillbirth and death certificates, make a permanent record of the:

- 39 (1) name;
- 40 (2) sex;
- 41 (3) age;
- 42 (4) place of death;

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1 (5) residence; and

2 (6) for a death certificate only:

3 (A) residence addresses of the deceased during the two (2)
4 years before the death; and

5 (B) Social Security number;
6 of the deceased.

7 (b) ~~The records shall be open to public inspection, but~~ The Social
8 Security number is confidential and may not be disclosed to the public.

9 (c) The local health officer shall, not later than January 31, April 30,
10 July 31, and October 31 of each year, furnish to the county auditor the
11 records of all deaths within the officer's jurisdiction that occurred
12 during the previous three (3) months.

13 (d) The local health officer may make records of other data in
14 connection with deaths for statistical purposes or for the purpose of
15 planning health programs. Records under this subsection are not public
16 records.

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